

# July 10, 2013 Harbor Commission Agenda Item Comments

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## 5) PUBLIC COMMENTS

The items I might wish to comment on include:

### 1. 2808 Lafayette Road bulkhead line controversy

- This matter was heard by the California Coastal Commission as Item 18a on their March 6, 2013, agenda. The staff report and a video of the proceedings can be found here: <http://www.cal-span.org/cgi-bin/archive.php?owner=CCC&date=2013-03-06>
- It was also Item 6 on the City Council's June 25, 2013, Consent Calendar: <http://ecms.newportbeachca.gov/Web/0/fo/494707/Row1.aspx>
- This involves the commercial property whose wharf collapsed into the Rhine Channel in 2000, and its rebuilding requires resolution of the boundary line with the State Lands Commission.
- The City staff report notes that the Harbor Commission has not been apprised of the issue because the question arose after City staff had issued an Approval in Concept.

### 2. 508 South Bay Front Avenue litigation

- This is a matter that was heard as Item IV.A on the City Council's July 9, 2013, Closed Session agenda: <http://www.newportbeachca.gov/Modules/ShowDocument.aspx?documentid=4414>
- It appears to involve the request to transfer the permit for a commercial dock on Balboa Island encroaching in front of a neighbor's property, for which the Harbor Commission received a staff report as Item 7.1 on the March 13, 2013, agenda, but which was withdrawn with an understanding that it would be coming back for a decision by the Commission at a later meeting.
- The Commission may wish to inquire why it is now the subject of potential litigation.

### 3. Non-public meetings regarding the future of Lower Castaways

- I am concerned that what was announced as a very open and public process may inadvertently be reverting to a less public one.

## 6) **APPROVAL OF MINUTES for June 12, 2013**

The draft minutes are generally excellent, but since they can only summarize what took place at the meeting, they often leave the reader wondering about the complete details of what was actually said.

- I think it is quite technologically feasible, and I think it would be very useful for the Commission to encourage posting the full audio minutes to the meeting webpages so that those seeking greater detail can easily find and review the complete comments.
- As well as providing a more complete record, it would be particularly helpful to those unable to attend the meetings in person.

That said, I would suggest the following minor changes to the passages from the draft minutes as shown in *italics* with suggested changes in **strikeout underline** format.

1. To clarify who was chairing the June 12 meeting, on page 1, under **Roll Call**, and probably throughout the minutes it would be helpful to identify "**Commissioner** McIntosh" as "**Vice Chair** McIntosh" or "**Acting Chair** McIntosh" or whatever the correct title is.
2. In the sentence at the bottom of page 1 and top of page 2, to clarify that the Harbor Code is a single title within the Municipal Code, and does not itself consist of many titles: "*Jim Mosher congratulated and expressed his appreciation to Commissioner Rodheim for his service and commented **on the Harbor Code noting** that Council recently adopted an ordinance amending two-hundred and nine sections of the Municipal Code, including Title 17 **of the Harbor Code (the Harbor Code)**.*"
3. In the second paragraph at the top of page 3, to clarify the definition of a derelict boat: "*It was noted that it would relate to a vessel that would **not** be able to leave the Harbor by its own power in addition to other criteria.*"
4. In the second paragraph under Subcommittee reports on page 3: "*Additionally, he reported working with **Coast Keepers Coastkeeper** to discuss the issue of the Lower Castaways being a Marine Protected Area (MPA) and the possibility of redistricting it. The goal of the sub-committee is to present to the Harbor **Commissioner Commission** before the end of the year.*"
5. There are some other minor grammatical anomalies in the minutes, but the meaning seems clear and whether they are errors, or not, is a matter of taste.

## **7) CURRENT BUSINESS**

### **2. Review Harbor Commission Objectives for Fiscal Year 2012-13**

1. I think the Harbor Commission is to be commended for taking a pro-active role in developing clear objectives, and systematically assessing their status in achieving them. The Commission may be surprised, but I am unaware of any other Board or Commission with self-generated written objectives for the coming year.
2. In addition to the obvious need to reassign the functions assigned to outgoing Commissioner Rodheim, I think it would be helpful to provide greater clarity as to how many distinct subcommittees the Commission has assigned to these objectives.
  - a. The official Harbor Commission webpage:  
<http://www.newportbeachca.gov/index.aspx?page=462>  
lists the Commissioners, and provides contact information for each, but identifies neither the current officers nor the sub-committees, making it difficult for those who might want to direct comments to a particular subcommittee to do so.
  - b. Additionally, the Commissioners should be aware that if these are standing subcommittees, their meetings and discussions need to be publicly noticed and open to the public in accordance with the Brown Act.
    - i. While sub-quorum ad hoc advisory subcommittees are not subject to that requirement, "ad hoc" normally means a body with a specific well-defined objective to be accomplished within a well-defined time, and then dissolved.
    - ii. Without a clear and complete listing of the present subcommittees it is difficult to assess if they are really ad hoc, or not. But my guess is that some of these are standing subcommittees that have existed for many years, to which a specific task has been temporarily assigned and/or new subcommittees for which no clear ending time can be foreseen.

